CHAPTER 8

Health and Safety

ARTICLE 8-4

General Health Provisions

Sec. 8-4-10. Hindering Health Officer prohibited.

It is unlawful for any person to hinder or interfere with or in any manner prevent any representative of the Tri-County Health Department or the Health Officer of the City from performing any duty imposed upon him or her by any rule of the State, the Tri-County Health Department or the City. (Prior code §6-103; Ord. 846 §1(part), 1975)

ARTICLE 8-8

Vegetation, Rubbish and Junk Control

Division 1.
Weeds, Brush, Rubbish and Junk

Sec. 8-8-10. Definitions.

As used in Division 1 of this Article, the following words shall have the meanings ascribed to them as follows:

(1) *Brush* means a growth of bushes concealing filthy deposits, rubbish, trash or debris, including all cuttings from trees and bushes.

(2) *Grass* means a voluntary growth of various green plants with blade-like leaves growing on land in the City.

(3) *Junk* means any manufactured good, appliance, fixture, furniture, machinery, motor vehicle or trailer that is abandoned, demolished or dismantled, or that is so worn, deteriorated or in such condition as to be unusable in the existing state, and scrap metal, scrap material, waste, bottles, tin cans, paper, garbage, boxes, crates, rags, used lumber, building materials, motor vehicle parts, machinery parts and used tires, any or all of which have been discarded or are unusable in the existing state.

(4) *Rubbish* means any material rejected or thrown away as worthless, including trash.

(5) *Weed* means an unsightly, useless, troublesome or injurious herbaceous plant, including all rank vegetable growth which exhales unpleasant and noxious odors, and also rank vegetable growth that may conceal filthy deposits, rubbish and debris; excluding however, flower gardens and vegetable gardens. (Ord. 1310 §2, 1988)

Sec. 8-8-20. Weed, grass or brush growth unlawful.

It is unlawful for any person who is an owner, lessee or occupant, or any agent, servant, representative or employee of such owner, lessee or occupant, having control of any lot, tract or parcel of land in the City to permit or maintain on any such lot, tract or parcel of land, or on or along the sidewalk, street or alley adjacent to the same between the property line and the curb or middle of the alley or for ten (10) feet outside the property line if there is no curb, any growth of weeds, grass or

brush to a height greater than six (6) inches or in any such manner that would constitute a fire hazard. (Prior code §6-242(a); Ord. 895 §2(part), 1976; Ord. 1589, 1999)

Sec. 8-8-30. Removal of weed, grass, brush, rubbish, debris or junk.

It shall be the duty of any person who is the owner, lessee or occupant of any lot, tract or parcel of land in the City to remove any such weeds, grass, brush or rank vegetation required to be cut by the provisions of this Article, and further to remove all rubbish, trash, debris, filthy deposits and junk found on such lot, tract or parcel of land and to immediately dispose of the same. (Ord. 1310 §3, 1988; Ord. 1589, 1999)

Sec. 8-8-40. Noxious plants prohibited.

It is unlawful for any person to cause, suffer or allow poison ivy, ragweed or other poisonous plants detrimental to the health, safety or welfare of the public to grow on any such lot, tract or parcel of land in such manner that any part of such poison ivy, ragweed or other poisonous or harmful weed shall extend, overhang or border on a public place, or to allow seed, pollen or other poisonous particles or emanations therefrom to be carried through the air into any public place. (Prior code §6-242(b); Ord. 895 §2(part), 1976; Ord. 1589, 1999)

Sec. 8-8-50. Removal of noxious plants.

It is the duty of any person who is the owner, lessee or occupant of any lot, tract or parcel of land to cut and remove or cause to be removed and destroyed by any lawful means all poisonous or harmful vegetation growing on or located upon such lot, tract or parcel of land in the City as often as may be necessary to prevent accumulation thereof. (Prior code §6-242(d); Ord. 895 §2(part), 1976; Ord. 1589, 1999)

Sec. 8-8-60. Burning unlawful; exception.

(a) It is unlawful for any person to burn or set fire to any rubbish, trash, debris,. litter, junk, weeds, brush, grass or other flammable material within the City or within forty (40) feet of the City limits, except if such fire is within a stove or other appliance, fixture or equipment suited or intended for such purpose and further subject to the provisions of Subsection (b) of this Section relating to burning within the City parks.

(b) It is unlawful for any person to burn or set fire to any flammable material within the City parks unless such fire is within a pit or facilities specifically constructed for such fire.

(1) Such burning within the City parks shall be permitted only between the hours of 5:00 a.m. to 10:00 p.m.

(2) No fire in the City parks shall be unattended at any time.

(3) All fire and hot ashes shall be extinguished prior to leaving the area.

(c) This Section shall not apply to any fire authorized by the Fire Chief upon finding by the Fire Chief that such fire would not be detrimental or injurious to the public health, safety or welfare. (Ord. 970 §1, 1978)

Sec. 8-8-70. Notice upon failure to remove.

(a) In the event any of the provisions of this Division are violated, the City Manager may serve, either personally or by regular mail, postage prepaid, to the last known address of the addressee, a written notice upon the owner, lessee or occupant of the property where the violation of this Division exists, or to any person having the care or control of such property requiring compliance with the provisions of this Division. Service thereof shall be deemed complete upon personal delivery, or after five (5) days from the date of mailing in the event the mailed notice is not returned to the sender.

(b) If the address of the person to be notified, as provided in this Section, is unknown or the mailed notice is returned undelivered, the notice may be served by posting the same in a conspicuous place on the property where the violation exists, in which event service of the notice shall be deemed complete twenty-four (24) hours after the date of the posting.

(c) In lieu of giving notice after a violation of this Division occurs, the City Manager may, in his or her sole discretion, give notice in advance of any violation, in the manner provided for herein, to the owner, lessee or occupant of any property in the City of the provisions of this Division and of the right of the City to abate any violation of this Division and assess the costs of such abatement to the owner, lessee or occupant of such property. (Ord. 1310 §4, 1988; Ord. 1589, 1999)

Sec. 8-8-80. Failure to remove; abatement by City; costs.

If the person upon whom such notice is served fails, neglects or refuses to abate the violation within ten (10) days of service of such notice on land which he or she owns, leases or occupies, as required by this Division, the City Manager, without further notice, may cause the necessary work to be performed to bring such property into compliance with this Division. Therefore, reasonable efforts shall be made to notify the owner, lessee or occupant of the costs thereof, plus charges authorized in this Division; provided, however, that in no event shall failure of the owner, lessee or occupant to receive notice of the costs and charges void the lien provided for in this Division. The costs of such work, plus additional charges for inspection and other costs therewith, shall be billed to the person responsible for said property. These additional charges are as follows:

(1) Actual costs of one hundred dollars ($100.00) or less shall be billed a minimum of twenty-five dollars ($25.00) additional costs.

(2) Actual costs greater than one hundred dollars ($100.00) shall be billed twenty-five percent (25%) of the actual cost of the work performed.

In the event payment therefor is not made to the City within thirty (30) days after the date of billing, all costs of such work, plus the above listed charges for inspection and other costs incurred, plus all applicable filing fees for a lien, shall become a lien against the subject property. Such lien shall be in effect as of the date the Director of Finance certifies the cost and charges to the office of the County Treasurer for collection in the same manner as general property taxes are collected. (Ord. 1310 §5, 1988; Ord. 1414 §1, 1992; Ord. 1589, 1999)

Sec. 8-8-90. Notice not prerequisite to prosecution.

No such written notice of violation as provided in this Article for assessment shall be required prior to a criminal prosecution for violation of this Code or prior to any other remedy provided for in this Code. (Prior code §6-243(d); Ord. 861 §1(part), 1975)

Sec. 8-8-100. Payment of costs and charges required.

It shall be the duty of the owner, lessee or occupant of the premises to pay the costs and charges provided for in Section 8-8-80 of this Chapter or object thereto as provided in Section 8-8-120. (Prior code §6-244; Ord. 861 §1(part), 1975)

Sec. 8-8-110. Method of payment.

The amount of assessment for the costs and charges provided for in this Division may be paid to the Director of Finance at any time prior to certification of the same by the City Manager to the office of the County Treasurer, but thereafter payment shall be made only to the office of County Treasurer. (Prior code §6-245; Ord. 861 §1(part), 1975)

Sec. 8-8-120. Objection to costs; hearing.

In the event any owner, lessee or occupant desires to object to the assessment made, he or she shall, within thirty (30) days after completion of the work on the subject property, file a written objection thereto with the Director of Finance who shall thereupon designate the next regular meeting of the City Council as the date when said objector may appear before the City Council and have his or her objections heard. (Prior code §6-246; Ord. 861 §1(part), 1975)

Sec. 8-8-130. Collection of costs by County.

Upon receipt of the assessment roll, the County Treasurer shall proceed to collect the amounts so assessed and certified against the property affected thereby in the same manner as the collection of general property taxes. (Prior code §6-247; Ord. 861 §1(part), 1975)

Sec. 8-8-135. Exceptions.

This Article shall not apply to the following:

(1) To the outdoor storage or placement of inoperable vehicles as defined herein, which are specifically permitted under the zoning ordinances of the City, including variances or permits obtained through the process provided for in the zoning ordinances of the City; or

(2) To motor vehicle collector's items, as defined and regulated by state statutes. (Ord. 1310 §6, 1988; Ord. 1589, 1999)

Division 2. Trees and Plants

Sec. 8-8-140. Neglect of trees, shrubs or plants unlawful.

It is unlawful for any person who is an owner, lessee or occupant of any lot, tract or parcel of land in the City adjacent to or abutting any sidewalk, street, public place or right-of-way in the City or any agent, servant, representative or employee of such owner, lessee or occupant having control of any such lot, tract or parcel of land in the City abutting a street, sidewalk, public place or right-of-way to fail to trim, spray, remove or otherwise care for any trees, shrubs or plants located on such lot, tract or parcel of land in the City, or located upon any public right-of-way abutting such lot, tract or parcel of land in the City at the expiration of a reasonable time as determined by the City Manager after having

been given written notice as provided in Section 8-8-210 to trim, spray, remove or otherwise care for such trees, shrubs or other plants. (Ord. 1164 §1(part), 1984; Ord. 1589, 1999)

Sec. 8-8-150. Notification of damage or injury.

Any person who injures, damages or destroys any tree, shrub or other plant situated in any street, alley, sidewalk or other public place or right-of-way in the City shall promptly notify the City Manager of such fact and shall, within such reasonable time as specified by the City Manager, repair or replace the same to the satisfaction of the City Manager to a condition equal to that which existed at such location prior to the injury, damage or destruction. Should the person fail or refuse to repair or replace the damaged or destroyed tree, shrub or other plant, as the case may be, within a reasonable time as determined by the City Manager, the City Manager shall do, or cause to be done, the necessary repair or replacement, and the cost thereof shall be recovered by the City as provided in Section 8-8-220. (Ord. 1164 §1 (part), 1984; Ord. 1589, 1999)

Sec. 8-8-160. Removal of dead tree or boughs.

It is unlawful for any owner, lessee or occupant of any lot, tract or parcel of land in the City or any agent, servant, representative or employee of such owner, lessee or occupant having control of any lot, tract or parcel of land in the City to permit any dead trees or dead overhanging boughs dangerous to life, limb or property to be located on such lot, tract or parcel of land after a reasonable period of time as determined by the City Manager and after written notice of such violation is given as provided in Section 8-8-210 to remove any such dead trees or dead overhanging boughs as the case may be. (Ord. 1164 §1(part), 1984)

Sec. 8-8-170. Right of entry for inspection; notice to correct condition.

The City Manager is authorized to enter upon any outside property in the City to inspect all living as well as dead trees, shrubs and other plants upon any such property. Upon discovering any such trees, shrubs or other plants to be infected with any disease or infested by any insects detrimental to the growth, health and life of such trees, shrubs or other plants and other trees, shrubs and plants in the City, the City Manager shall given written notice as provided in Section 8-8-210 to the owner, agent or occupants of the premises whereon the same is located of the conditions thereof and direct such owner, agent or occupant to eradicate, remove and destroy such conditions or to remove and destroy such living or dead trees, shrubs and other plants in order to control and/or eliminate such disease or infestation. (Ord. 1164 §1(part), 1984; Ord. 1589, 1999)

Sec. 8-8-180. Rules and regulations established by City Manager.

The City Manager shall have the authority to promulgate, amend and adopt such rules, regulations and specifications for the trimming, spraying, removal, planting, pruning and protection of trees, shrubs and other plants within the limits of any street, sidewalk, public place or right-of-way in the City, and of such trees, shrubs and other plants located upon any lot, tract or parcel of land abutting such street, sidewalk, public place or right-of-way in the City; provided, however, that any such rules, regulations and specifications must be for the protection of the general health, safety and welfare of the citizens of the City. (Ord. 1164 §1(part), 1984)

Sec. 8-8-190. Tree species prohibited.

(a) It is unlawful to plant in the City any *Populus* species tree that bears a cotton-like substance, except aspens.

(b) It is unlawful to plant in any public right-of-way in the City any poplar (*Populus*), willow (*Saliz*), box-elder (*Acer negundo*), Siberian elm (*Ulmus pumila*) and weeping or pendulous tree, or any plant with bushy growth that obstructs, restricts or conflicts with necessary and safe use of the public right-of-way. Furthermore, no upright evergreen shall be planted on any public right-of-way in the City without first obtaining permission from the City Manager. (Ord. 1164 §1(part), 1984)

Sec. 8-8-200. Spacing of trees.

It is unlawful to space trees in any street, public place or public right-of-way other than as prescribed in the specifications promulgated and adopted by the City Manager. (Ord. 1164 §1(part), 1984)

Sec. 8-8-210. Failure to remove; notice required.

(a) In the event any of the provisions of this Division are violated, the City Manager may serve, either personally or by mail, a written notice of such violation upon any person being responsible for such violation. Service thereof shall be deemed complete upon personal delivery or after five (5) days from the date of mailing in the event the mailed notice is not returned to the City undelivered.

(b) If the address of the person to be notified as provided in this Division is unknown or a mailed notice is returned undelivered, the notice may be served by posting the same for a period of five (5) consecutive days in a conspicuous place on the property where the violation exists, and in the case of the violation existing on a public right-of-way, upon the adjacent or abutting property owned by the person deemed responsible for such violation. In the event service of the notice is made by posting, notice shall be deemed complete as of the fifth day of posting. (Ord. 1164 §1(part), 1984)

Sec. 8-8-220. Abatement by City; costs.

If the person upon whom such notice is served fails, neglects or refuses to correct the violation of this Article within ten (10) days of service of such notice, the City Manager, without further notice, may cause the necessary work to be performed to eliminate the violation and bring such property into compliance with this Division. Therefore, reasonable effort shall be made to notify the person responsible for such violation of the costs thereof, plus charges authorized in this Division; provided, however, that in no event shall failure to receive notice of the cost and charges void the lien provided for in this Division. The costs of such work, plus additional charges for inspection and other costs in connection therewith, shall be billed to the person responsible for said property. These additional charges are as follows:

(1) Actual costs of one hundred dollars ($100.00) or less shall be billed a minimum of twenty-five dollars ($25.00) additional costs.

(2) Actual costs greater than one hundred dollars ($100.00) shall be billed twenty-five percent (25%) of the actual cost of the work performed.

In the event payment thereof is not made to the City within thirty (30) days after the date of billing, all costs of such work, plus the above-listed charges for inspection and other costs incurred, plus all applicable filing fees for a lien, shall become a lien against the property where such violation existed or in the event such violation was on the street, sidewalk or public property or other right-of-way of the City, upon the property adjacent and abutting the violation, as of the date the Director of Finance certifies the cost and charges to the office of the County Treasurer for collection in the same manner

as is provided for the collection of general property taxes. (Ord. 1164 §1(part), 1984; Ord. 1414 §2, 1992; Ord. 1589, 1999)

Sec. 8-8-230. Notice not prerequisite to prosecution.

No such written notice of violation as provided in this Division for assessment shall be required prior to a criminal prosecution for violation of this Code or prior to any other legal action that may be instituted by the City for collection of such costs and charges, including judicial action for amounts due and owing for work rendered by the City in the elimination of such violation. (Ord. 1164 §1(part), 1984)

Sec. 8-8-240. Payment of costs and charges.

It shall be the duty of the person responsible for the violation to pay the cost and charges provided for in this Division or object thereto as provided in Section 8-8-260. (Ord. 1164 §1(part), 1984; Ord. 1589, 1999)

Sec. 8-8-250. Method of payment.

The amount of assessment for the costs and charges provided for in this Division may be paid to the Director of Finance at any time prior to certification of the same by the City Manager to the office of the County Treasurer, but thereafter payment shall be made only to the office of County Treasurer. (Ord. 1164 §1(part), 1984)

Sec. 8-8-260. Objection to costs; hearing.

In the event any person desires to object to the assessment made, such person shall, within thirty (30) days after completion of the work and the elimination of the violation, file a written objection thereto with the Director of Finance who shall thereupon designate the next regular meeting of the City Council as the date when such objector may appear before the City Council and have all objections heard. (Ord. 1164 §1(part), 1984; Ord. 1589, 1999)

Sec. 8-8-270. Collection of costs by County.

Upon receipt of the assessment roll, the County Treasurer shall proceed to collect the amounts so assessed and certified against the property affected thereby in the same manner as the collection of general property taxes. (Ord. 1164 §1(part), 1984)

Sec. 8-8-280. Violation; penalty.

Any person found guilty of violating any provisions of this Division, upon conviction thereof, is punishable as is provided in Article 1-24 of this Code. (Ord. 1164 §1(part), 1984; Ord. 1589, 1999)

ARTICLE 8-10

Undesirable Plants

Sec. 8-10-10. Definitions.

The following words or phrases, as used in this Article, shall have the following meanings:

(1) *Biological management* means the use of an organism to disrupt the growth of undesirable plants.

(2) *Chemical management* means the use of herbicides or plant growth regulators to disrupt the growth of undesirable plants.

(3) *Control* means preventing a plant from forming viable seeds or vegetative propagules.

(4) *Cultural control* means those methodologies or management practices conducted to favor the growth of desirable plants over undesirable plants, including but not limited to, maintaining an optimum fertility and plant moisture status in an area, planting at optimum density and spatial arrangement in an area, and planting species most suited to an area.

(5) *Integrated management* means the planning and implementation of a coordinated program utilizing a variety of methods for management of undesirable plants, which methods may include but are not limited to education, preventative measures, good stewardship and control methods (i.e., mechanical, cultural, biological and/or chemical). The purpose of integrated management is to achieve healthy and productive plant communities by the least environmentally damaging methods.

(6) *Landowner or occupant* means any person, partnership, corporation, association or political entity owning, leasing or occupying, or any agent, representative or employee of the aforementioned, controlling possession of a lot, tract or parcel of land within the City.

(7) *Management response* means a plan, with a schedule, in response to a notification to manage. This plan will lay out the approach by the landowner or occupant for eradicating noxious plants on subject property.

(8) *Mechanical control* means those methodologies or management practices that physically disrupt plant growth, including but not limited to, tilling, mowing, burning, flooding, mulching, hand-pulling and hoeing.

(9) *Native plant* means a plant species which is indigenous to the State. For the purposes of this Section, native grasses will not be considered as weeds or undesirable plants. Said grasses shall be buffalo grass, brome grass and other native grasses as approved by the City Council. Said grasses shall be permitted to prevent erosion and to control the spread of other harmful or nuisance vegetation.

(10) *Plant growth regulator* means a substance used for controlling or modifying plant growth processes without appreciable phytotoxic effect at the dosage applied.

(11) *Undesirable plant* means an alien plant or parts thereof, which meets one (1) or more of the following additional criteria:

a. It aggressively invades or is detrimental to economic crops or native plant communities;

b. It is poisonous to livestock;

c. It is a carrier of detrimental insects, diseases or parasites;

d. The direct or indirect effect of the presence of this plant is detrimental to the environmentally sound management of natural or agricultural ecosystems.

(12) *Undesirable plant management* means the planning of an integrated program to manage undesirable plant species.

(13) *Weed Inspector* means the designated representative for the City who is authorized by the City Manager to enforce this Article. (Ord. 1418 §1(part), 1992; Ord. 1589, 1999)

Sec. 8-10-20. Advisory Commission created.

The City Council shall act as the Undesirable Plant Management Advisory Commission. The Advisory Commission shall have the following powers and duties:

(1) Review the undesirable weed management plan at regular intervals but not less often than once every three (3) years; and

(2) Designate undesirable plants subject to integrated management plans, in addition to those plants listed in Section 35-5.5-108, C.R.S. (Ord. 1418 §1(part), 1992; Ord. 1589, 1999)

Sec. 8-10-30. Undesirable plants designated.

The following are designated as undesirable plants in the City:

(1) Section 35-5.5-108, C.R.S., undesirable plant list:

a. Russian knapweed (*Centaurea repens*),

b. Spotted knapweed (*Centaurea maculosa*),

c. Diffuse knapweed (*Centaurea diffusa*), and

d. Leafy spurge (*Euphorbia esula*).

(2) In addition, the Advisory Committee has designated, through the public hearing process held on August 18, 1992, the following plants as undesirable specific to the City:

a. Canada thistle (*Cirsium arvense*),

b. Field bindweed (*Convolvulus arvensis*),

c. Musk thistle (*Carduus nutans*), and

d. Scotch thistle (*Onopordum acanthium*). (Ord. 1418 §1(part), 1992; Ord. 1589, 1999)

Sec. 8-10-40. Control of undesirable plants.

(a) Any person or political entity owning, leasing or occupying, or any agent, representative or employee of the aforementioned, controlling possession of a lot, tract or parcel of land, or contiguous lots, tracts or parcels of land under the same ownership, larger than one (1) acre, within the City, shall be required to control, through an integrated management plan, undesirable plants as designated in Section 8-10-30.

(b) The Weed Inspector shall have the right to enter on any subject land, during reasonable business hours, for the purpose of inspecting for the existence of undesirable plant infestations, provided that at least one (1) of the following circumstances has occurred:

(1) The landowner or occupant has requested an inspection;

(2) A neighboring landowner or occupant has reported a suspected undesirable plant infestation which might affect the subject property and requested an inspection; or

(3) The Weed Inspector or other authorized agent has made a visual observation from a public right-of-way or other area accessible to the public and has reason to believe that an infestation exists.

(c) No entry upon any premises, lands or places shall be permitted until the landowner or occupant has been notified, either orally or by proof of mailing, that such inspection is pending. Where possible, inspections shall be scheduled and conducted with the concurrence of the landowner or occupant. If, after receiving notice that an inspection is pending, the landowner or occupant denies access to the Weed Inspector, the Weed Inspector may seek an inspection warrant issued by the Municipal Court. The Court may issue an inspection warrant upon presentation by the Weed Inspector of an affidavit stating: the information which gives the Weed Inspector reasonable cause to believe that any provision of this Article is being or has been violated, that the occupant or landowner has denied access to the Weed Inspector, and a general description of the location of the affected land. No landowner or occupant shall deny access to such land when presented with an inspection warrant.

(d) The City Council shall have the authority, acting through the Weed Inspector, to notify the landowner or occupant of such lands upon which undesirable plants are found, to advise the landowner or occupant of the presence of undesirable plants. Said notification shall:

(1) Name the undesirable plants;

(2) Advise the landowner or occupant to control the undesirable plants;

(3) Specify the best available control methods of integrated management, including: cultural control; mechanical control; biological management; and chemical management as prescribed by the certified agent.

Where possible, the Weed Inspector shall consult with the affected landowner or occupant in the development of a management plan for the control of the undesirable plants on the premises or lands. A combination of methods should be used to achieve an integrated management plan which addresses prevention of an undesirable plant from forming viable seeds or vegetative propagules, as well as control. (Ord. 1418 §1(part), 1992; Ord. 1589, 1999)

Sec. 8-10-50. Enforcement.

(a) Within ten (10) days after receipt of the notification to manage, the landowner or occupant shall take at least one (1) of the following actions:

(1) Comply with the terms of the notification to manage, or initiate substantial compliance if the time for compliance exceeds ten (10) days;

(2) Acknowledge the terms of the notification to manage and submit an acceptable plan and schedule for the completion of the plan for compliance;

(3) Request an arbitration panel to determine the final management plan. The arbitration panel shall be appointed by the City Council and consist of:

a. A weed management specialist or weed scientist;

b. A landowner of similar land in the City; and

c. A third member to be chosen by the first two (2) panel members.

(b) Failure to comply with the aforementioned sections of this Article may result in the following:

(1) In the event the landowner or occupant does not comply with the notification to manage or the management plan as determined by the arbitration panel, the City Council may authorize the Weed Inspector to cause the necessary work to be performed to bring such property into compliance with this Article, and to assess the whole cost thereof, including up to fifteen percent (15%) for inspection and other incidental costs in connection therewith, upon the lot or tract of land, except for public property, where the undesirable plants are located.

a. In the event payment therefor is not made to the City within thirty (30) days after the date of billing, all costs of such work, plus the above listed charges for inspection and other costs incurred, plus all applicable filing fees for a lien, shall become a lien against the subject property. Such lien shall be in effect as of the date the Director of Finance certifies the cost and charges to the office of the County Treasurer for collection in the same manner as general property taxes are collected.

b. No such request for payment shall be made until the Weed Inspector determines that the implementation undertaken by the City or its independent contractors has successfully achieved the level of management called for in the management response.

(2) It shall be unlawful for any landowner or occupant to fail to respond as provided in Subsection (a)(1), (2) or (3) above within ten (10) days after receipt of the notification to control or eradicate concerning their property with undesirable plants. Criminal prosecution may be initiated for a violation of this Article in addition to any other remedies. Penalties upon conviction shall be as provided in Article 1-24 of this Code. (Ord. 1418 §1(part), 1992)

ARTICLE 8-12

Garbage Collection

Sec. 8-12-10. Garbage defined.

As used in Sections 8-12-10 through 8-12-40, *garbage* means all refuse, animal or vegetable matter and all stale or unsound fruit, vegetables, bread, fish, meat and other food products not fit for human food. (Prior code §6-202(part); Ord. 1589, 1999)

Sec. 8-12-20. Garbage container requirements; prohibited materials.

Housekeepers, restaurant keepers and owners, hotel keepers and owners, and all other keepers and owners of places where garbage is made or accumulated within the City must deposit all garbage in a suitable watertight iron or tin vessel or can, closely covered and provided at their own expense, and be placed in the rear of the lot adjacent to the alley (if there is no alley, then in front of their houses) so that such cans or vessels can be conveniently emptied and the garbage removed by the garbage collector, but no ashes or chamber lye, poison, broken glass, dishes, bottles, cans or anything except garbage within the meaning of Sections 8-12-10 through 8-12-40 shall be deposited within such vessels or cans. (Prior code §6-201; Ord. 1589, 1999)

Sec. 8-12-30. Garbage collection required.

Each adult occupying any property in the City shall be responsible for removal of garbage from such premises at least once each seven-day period, and all such occupants of commercial or industrial properties shall have garbage removed therefrom more often if necessary to prevent overflow of the garbage container used on such premises. (Ord. 1279 §1, 1987)

Sec. 8-12-40. Garbage vehicle requirements.

All garbage vehicles shall be equipped with a tight box or tank so that no garbage or liquids shall escape therefrom and shall be kept thoroughly clean, and such vehicles and the drivers thereof and the owners shall as to such garbage business be under the supervision of the Health Committee of the City Council and of the City Health Officer. (Prior code §6-202(part))

Sec. 8-12-60. Garbage disposal definitions and requirements.

(a) As used in this Section, the following definitions shall apply:

(1) *Garbage,* as used in this Article, is intended to include wastes from the preparation, cooking and consumption of food, condemned food products and all refuse and waste from handling, storage, preparation and sale of produce.

(2) *Garbage disposal unit* means an electrically powered device installed under and in direct connection with a sink or similar receptacle supplied with water in which food waste and garbage is, by means of grinding and flushing operations, discharged directly into a sanitary drainage system.

(b) From and after the effective date of the ordinance codified in this Section, no residential building shall be constructed, and the kitchen of no existing residential building shall be remodeled by the removal and replacement of a kitchen sink or similar receptacle, without the installation of a garbage disposal unit in any such building.

(c) No mobile home shall be occupied or used with the City without first having an operable garbage disposal unit in such mobile home. (Prior code §§6-206, 6-207; Ord. 662 §1, 1970)

Sec. 8-12-70. Violation; penalty.

Any person found in violation of Section 8-12-60 is punishable as provided in Article 1-24 of this Code. (Ord. 662 §4, 1970; Ord. 1589, 1999)

ARTICLE 8-16

Littering and Obstructions

Sec. 8-16-10. Depositing or littering prohibited; exception.

(a) It is unlawful to place, deposit, dump or litter or cause to be placed, deposited, dumped or littered any offal composed of animal or vegetable substance, dead animal, excrement, garbage, trash, debris, sewage, rocks, dirt, scrap construction materials, nails, mud, snow, ice or other waste materials, whether liquid or solid, or dangerous materials that may cause a traffic hazard in or upon any public or private highway or road, or to place, deposit, dump or litter such materials in or upon any public grounds in the City or upon any private property in the City without consent of the owner, save and except property designated by the City or set aside by the City for such purposes. Such dumping, littering or depositing upon any private property not zoned or designated by a visible sign or signs for dumping, littering or depositing purposes shall be prima facie evidence of the lack of consent to such dumping, depositing or littering by the owner of such property.

(b) It is unlawful to place, deposit or dump, or cause to be placed, deposited or dumped any waste fuel, waste oil, paint, chemicals or other hazardous materials, whether liquid or solid, upon any property in the City, save and except property designated by the City or set aside by the City for such purposes. (Ord. 1311 §1, 1988)

Sec. 8-16-20. Hauling certain materials or substances; regulations.

(a) It is unlawful for any person to drive or move any truck or other vehicle, or for the owner thereof to cause to be driven or moved, within the City unless such vehicle is covered so as to prevent any load or contents from falling from, leaking from, being blown from or in any other manner leaving such truck or vehicle and being deposited upon any street, alley or other public or private place not intended for the disposal of such load. This Section shall not apply to loads of earth excavation materials such as dirt, rock or sand.

(b) It is unlawful for any person to operate or cause to be operated on any highway or public way in the City any truck or vehicle transporting manure, garbage, trash, swill or offal unless such truck or vehicle is fitted with a substantial, tight box or other such container thereon so that no portion of such matter will blow from, be thrown from or fall from such vehicle upon the highway or public way.

(c) Transporting a load without the covering required in Subsection (a) of this Section or the box required in Subsection (b) of this Section shall be a prima facie violation of this Section whether or not the load thereon is observed to leak from, blow from or fall from the subject vehicle. (Ord. 1324 §l, 1989)

Sec. 8-16-30. Littering roadway prohibited.

No person shall dump, deposit, litter or scatter any trash, garbage, scrap construction materials, refuse, debris or waste of any nature whatsoever upon the defined roadways within the area designated as the City dumpground as such roadways are defined within the area by the Traffic Engineer. (Prior code §6-228; Ord. 848 §1(part), 1975; Ord. 1589, 1999)

Sec. 8-16-40. Throwing, depositing or possessing noxious substances prohibited.

No person shall throw or permit to be thrown onto any highway, thoroughfare, alley, vacant lot or other public or private place not designed for such purposes any garbage, tin cans, papers, ashes, animal or vegetable matter, or any other such materials whatever, nor shall any person throw, possess or deposit any garbage, tin cans, paper, animal or vegetable matter or any other such material upon such person's premises where the same will attract or harbor flies, rodents or other pests, or otherwise become filthy or ill-smelling. (Ord. 1280 §1, 1987)

Sec. 8-16-50. Storage of refuse or scrap materials.

Persons storing or placing trash, garbage, scrap construction materials, refuse, debris or waste of any nature whatsoever in any receptacle shall do so in such a manner as to prevent the trash, garbage, scrap construction materials, refuse, debris or waste from being carried or deposited by the elements upon any street, sidewalk or other public place or private property in the City.

(1) No person shall keep or store any trash, garbage, refuse, debris or waste of any nature that may cause a health or sanitation hazard by reason of being blown or scattered about by wind, children or animals or by reason of being exposed to insects or the elements, unless such trash, garbage, refuse, debris or waste is kept or stored in a covered or tightly closed container or tightly closed waterproof sack inside a building.

(2) No person shall keep or store any waste or discarded paper or paper products, scrap construction materials or waste or debris unless such waste or discarded paper or paper products, scrap construction materials or other waste or debris is covered, secured, or in some manner protected so as to prevent such materials or waste from being blown or scattered about by wind or the elements. (Ord. 1280 §2, 1987)

Sec. 8-16-60. Construction material storage requirements.

No person shall keep or store any construction materials unless such materials are covered and secured or in some manner protected so as to prevent such materials:

(1) From being blown, scattered about or otherwise moved by wind, elements or other natural causes; or

(2) From creating a place for harboring or breeding of flies, rodents or other pests. (Ord. 1280 §3, 1987)

Sec. 8-16-70. Deposit of ice or snow prohibited.

No person shall deposit or cause any snow or ice to be deposited on or against any fire hydrant or traffic signal, control device or appurtenance; nor shall any person deposit or cause to be deposited accumulations of snow or ice upon or adjacent to any sidewalk, street or roadway or loading and unloading area of a public transportation system or any designated emergency access lane such as may retard or in any way interfere with the safe and orderly flow of pedestrian or vehicular traffic by obstructing the view of such traffic on intersecting streets or drives or by any other means, or in any way obstruct or impede street or roadway drainage. (Prior code §6-226; Ord. 848 §1(part), 1975)

Sec. 8-16-80. Fertilizer permitted when.

The provisions of this Article shall not apply to or be held to prohibit the scattering of manure or fertilizer upon lawns, gardens or farmlands for the purpose of increasing the fertility thereof so long as the same may be done in accordance with the customary and approved methods employed by agriculturalists. (Prior code §6-227; Ord. 848 §1(part), 1975)

Sec. 8-16-85. Failure to remove; abatement by City.

If the person upon whom such notice is served fails, neglects or refuses to correct the violation within ten (10) days of service of such notice, the City Manager may cause the necessary work to be performed to bring such property into compliance with this Article. Therefore, reasonable effort shall be made to notify the person responsible for such violations of the costs thereof, plus charges authorized in this Article; provided, however, that in no event shall failure to receive notice of the cost and charges void the lien provided for in this Article. The cost of such work, plus additional charges for inspection and other costs in connection therewith shall be billed to the person responsible for said property. These additional charges are as follows:

(1) Actual costs of one hundred dollars ($100.00) or less shall be billed a minimum of twenty-five dollars ($25.00) additional costs.

(2) Actual costs greater than one hundred dollars ($100.00) shall be billed twenty-five percent (25%) of the actual cost of the work performed.

In the event payment thereof is not made to the City within thirty (30) days after the date of billing, all costs of such work, plus the above listed charges for inspection and other costs incurred, plus all applicable filing fees for a lien, shall become a lien against the property where such violation existed or in the event such violation was on the street, sidewalk or public property or other right-of-way of the City, upon the property adjacent and abutting the violation, as of the date the Director of Finance certifies the cost and charges to the office of the County Treasurer for collection in the same manner as is provided for the collection of general property taxes. (Ord. 1414 §2, 1992; Ord. 1589, 1999)

Sec. 8-16-90. Maintaining a violation after repeated notice.

It is unlawful and a public nuisance for any person to own, maintain, manage or control property in connection with which a designated representative of the City has issued a written notice for violation of any part of Article 8-8, 8-12 or 8-16 or Section 12-8-10(a) of this Code three (3) times or more within a twelve-month period. Notices may be but need not be for the same type of violation in order to constitute a nuisance. Such a nuisance is a separate and distinct offense for which the violator may be charged in addition to any other charges, or remedies available to the City for the abatement of a nuisance. Any person, corporation or other entity found guilty or pleading guilty or nolo contendere to violating any provisions of this title shall be punishable by a fine of not more than three hundred dollars ($300.00) or incarceration of not more than ninety (90) days in jail, or both. No written or verbal notice or warning of violation shall be required prior to a criminal prosecution for violation of this Chapter, and such prosecution may occur regardless of whether nuisance abatement procedures are or are not commenced. (Ord. 1335 §1, 1989; Ord. 1589, 1999)

ARTICLE 8-20

Public Hazards

Sec. 8-20-10. Cellars and other openings; regulations.

It is unlawful for any person to keep or permit to be left opened or unguarded any cellar door, well, grating or other covering of any hole large enough to be of danger to children, or to permit any such covering or door of any premises owned, used or occupied by him or her to be left opened or out of repair or in any manner to be insecure. (Prior code §7-419(l); Ord. 880 §1(part), 1976)

Sec. 8-20-20. Abandoning refrigerators or other articles.

It is unlawful for any person to abandon or discard, in any public or private place accessible to children, any chest, closet, piece of furniture, refrigerator, icebox, motor vehicle or any other article having a compartment of a capacity of one and one-half (1.5) cubic feet or more and having a door or lid which when closed cannot be opened easily from the inside or who, being the owner, lessee or manager of such place, knowingly permits such abandoned or discarded article to remain in such condition. (Prior code §7-419(2); Ord. 880 §1(part), 1976)

ARTICLE 8-24

Nuisances

Sec. 8-24-10. Applicability; interpretation.

In all cases where no nuisance is specifically defined in this Article or by other separate ordinance, this Section shall apply to cover and provide for every nuisance known to the common law of the land and the state statutes. (Prior code §6-801(a); Ord. 1589, 1999)

Sec. 8-24-20. Building, vehicle or premises use.

No building, vehicle, structure, receptacle, yard, lot, premises or part thereof shall be made, used, kept, maintained or operated in the City, if such use, keeping, maintaining or operating shall be the occasion of any nuisance or shall be dangerous to life or detrimental to health. (Prior code §6-801(b))

Sec. 8-24-30. Building code violations, unsanitary and unsafe conditions.

Every building, structure or part thereof constructed or maintained in violation of the City building code, which is in an unsanitary condition or in an unsafe or dangerous condition, or which in any manner endangers or is detrimental to the health or safety of any person, is declared to be a nuisance. (Prior code §6-801(c); Ord. 1589, 1999)

Sec. 8-24-40. Nuisances designated generally.

In addition to those things declared a nuisance in this Article and by ordinance elsewhere and not by way of limitation, it is declared to be a nuisance for any person within the City limits to commit the acts described in Sections 8-24-50 through 8-24-110. (Prior code §6-802(part); Ord. 1589, 1999)

Sec. 8-24-50. Offensive odors.

It is unlawful to so conduct any business or industry or use any premises so as to create such an offensive smell as may taint the air and render it unwholesome, or nauseous to the neighborhood and thereby be detrimental to the health of the residents. (Prior code §6-802(a))

Sec. 8-24-60. Creating noxious exhalations.

It is unlawful to erect, continue or use any building or other place for the exercise of any trade, employment or manufacture, which by occasioning noxious exhalations, offensive smells or otherwise is offensive, dangerous or detrimental to the health of individuals or the public. (Prior code §6-802(b))

Sec. 8-24-70. Smoke or obnoxious gas.

It is unlawful to permit or cause dense smoke or any obnoxious gas or vapor to be discharged from any smokestack or chimney. (Prior code §6-802(c))

Sec. 8-24-80. Privy or water closet without sanitary sewer connection.

It is unlawful to erect or maintain a privy or water closet not connected with the public sanitary sewer system of the City. (Prior code §6-802(d))

Sec. 8-24-90. Harboring barking dog.

It is unlawful to own, keep, possess or harbor any dog which, by frequent or habitual howling, yelping, barking or otherwise, shall cause annoyance or disturbance to persons in the neighborhood. It shall be unlawful to any owner, possessor or person who so keeps any dog to permit such dog by such conduct to so disturb or annoy any person in the neighborhood; provided that the provisions of this Section shall not apply to premises occupied by veterinarians or to premises occupied or used by the City dog pound. (Prior code §6-802(e); Ord. 1589, 1999)

Sec. 8-24-100. Unnecessary noises.

It is unlawful to make unnecessary noises upon, near or adjacent to the streets, highways and other public places in the City. It is unlawful for any person to make, continue or cause to be made any unnecessary or unusual noise which either annoys, injures or endangers or is detrimental to the comfort, repose, health or safety of others, unless the making and continuing of the same is necessary for the protection or preservation of property or of the health, safety, life or limb of some person or the public generally. (Prior code §6-802(f))

Sec. 8-24-110. Accumulation of rubbish and debris.

(a) It is unlawful to accumulate rubbish and debris of all kinds on private and public property within the City limits.

(b) *Rubbish and debris* as used in this Section shall be construed to mean all accumulation of waste, refuse and rejected matter and material, whether animal, vegetable or mineral, manufactured or natural, except garbage. (Prior code §6-802(g))

Sec. 8-24-120. Poster, sign or advertisement.

Any poster, sign, placard, advertisement or painted or printed matter whatever which shall be struck, displayed, exhibited, posted or pasted upon any private property without the permission of the owner, agent or occupant of the private property shall be deemed a nuisance to be abated by the City as a nuisance. (Prior code §7-504(c))

Sec. 8-24-130. Abatement of nuisance.

Whenever any nuisance shall be found on any premises within the City, the City Manager or City Council is authorized, in his, her or its discretion, to cause the same to be summarily abated in such manner as he, she or it may direct. (Prior code §6-803)

Sec. 8-24-140. Health Officer and City Manager inspection and enforcement.

(a) It shall be the duty of the Health Officer, City Manager and such officers as the City Manager may direct from time to time to ascertain and cause nuisances in the City to be abated.

(b) Any person charged or appointed to enforce this Article may make such inspections as may be necessary in accordance with the provisions of Article 1-20 of this Code in order to enforce the provisions of this Article and to cause all nuisances to be abated or removed as provided herein. (Prior code §6-804; Ord. 866 §1, 1976)

Sec. 8-24-150. Notice to owner or occupant upon failure to abate.

(a) In the event any of the provisions of this Article are violated by permitting the existence of a nuisance as defined in this Article on any lot, parcel of land, structure or premises, the City Manager or Health Officer may serve, either personally or by mail, a written notice upon the owner, agent, occupant or person in control of such lot, parcel of land, structure or premises, to comply with the provisions of this Article. Service thereof shall be deemed complete upon personal delivery or after five (5) days from date of mailing in the event the mailed notice is not returned to sender undelivered.

(b) If the address of a person to be notified herein is unknown or a mailed notice is returned undelivered, said notice may be served by posting the same in a conspicuous place on the property where the violation exists, in which event service of the notice shall be deemed complete as of the date of posting. (Prior code §6-805(a), (b); Ord. 866 §3(part), 1976)

Sec. 8-24-160. City to perform work; costs.

If the person upon whom such notice is served as provided in Section 8-24-150 fails, neglects or refuses to correct the violation within ten (10) days of service of such notice, the City Manager may cause the necessary work to be performed to eliminate the violation. Therefore, reasonable effort shall be made to notify the owner, lessee or occupant of the costs thereof, plus the charges herein authorized; provided that in no event shall failure of the owner, lessee or occupant to receive notice of the costs and charges void the lien provided for in this Section. The actual cost plus additional charges for inspection and other costs in connection therewith shall be billed to the person responsible for said property. These additional costs are as follows:

(1) Actual costs of one hundred dollars ($100.00) or less shall be billed a minimum of twenty-five dollars ($25.00) additional costs.

(2) Actual costs greater than one hundred dollars ($100.00) shall be billed twenty-five percent (25%) of the actual cost of the work performed.

In the event payment therefor is not made to the City within thirty (30) days after the date of billing, all costs of such work, plus the above listed charges for inspection and other costs incurred, plus all applicable filing costs, shall become a lien against the property as of the date the Director of Finance certifies said cost and charges to the office of the County Treasurer for collection in the same manner as is provided for the collection of general property taxes. (Prior code §6-805(c); Ord. 866 §3(part), 1976; Ord. 1414 §4, 1992; Ord. 1589, 1999)

Sec. 8-24-170. Notice of violation not required.

No such written notice of violation as provided in this Article for assessment shall be required prior to a criminal prosecution for violation of this Code or prior to any other remedy provided for in this Code. (Prior code §6-805(d); Ord. 866 §3(part), 1976; Ord. 1589, 1999)

Sec. 8-24-180. Owner or occupant to pay abatement costs.

It shall be the duty of the owner, lessee or occupant of the premises to pay the costs and charges provided for in Section 8-24-160. (Prior code §6-806; Ord. 866 §3(part), 1976)

Sec. 8-24-190. Abatement costs; to whom paid.

The amount of assessment for the costs and charges provided for in Section 8-24-160 may be paid to the Director of Finance at any time prior to certification of the same by the City Treasurer to the office of the County Treasurer, but thereafter payment shall be made only to the office of County Treasurer. (Prior code §6-A807; Ord. 866 §3(part), 1976; Ord. 1589, 1999)

Sec. 8-24-200. Objections to assessment; hearing.

In the event any owner, lessee or occupant desires to object to the assessment made, he or she shall, within thirty (30) days after completion of the work on the subject property, file a written objection thereto with the City Clerk, who shall thereupon designate the next regular meeting of the City Council as the date when such objector may appear before the City Council and have his or her objections heard. (Prior code §6-808; Ord. 866 §3(part), 1976)

Sec. 8-24-210. Collection of costs.

Upon receipt of the assessment roll, the County Treasurer shall proceed to collect the amounts so assessed and certified against the property affected thereby in the same manner as the collection of general property taxes and the redemption thereof. (Prior code §6-809; Ord. 866 §3(part), 1976; Ord. 1589, 1999)

ARTICLE 8-28

Temporary Fireworks Stand Permit

Sec. 8-28-10. Purpose.

To provide and establish reasonable regulations for the handling, storage, display, dispensing, use, possession and sale of fireworks which are not prohibited by state law, which regulations promote the public safety and welfare. (Ord. 1544, 1998)

Sec. 8-28-20. Definitions.

The following definitions shall apply in the interpretation and enforcement of this Article:

(1) *Fireworks* are those items designed and prepared primarily to produce visual or audible effects by combustion, explosion, deflagration or detonation. *Fireworks* does not include toy caps which do not contain more than twenty-five hundredths (.25) of a grain of explosive compound per cap; highway flares, railroad fuses, smoke candles and other emergency signal devices; or educational rockets and toy propellant device type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two (2) ounces of propellant and when such engines or model cartridges are designed to be ignited by electrical means.

(2) *Nonprofit applicants* are those applicants that meet the following criteria: a) exempt under Section 501(C)(3), Internal Revenue Code; b) provide charitable, educational, religious, veterans, civic, health or human services within the City; and c) nonprofit.

(3) *Permissible fireworks* means the following items designed primarily to produce visual or audible effects by combustion, including certain devices designed to produce audible or visual effects; except that no device or component shall, upon functioning, project or disburse any metal, glass or brittle plastic fragments.

a. Cylindrical fountains, total pyrotechnic composition not to exceed seventy-five (75) grams each in weight. The inside diameter shall not exceed three-quarters (¾) inch.

b. Cone fountains, total pyrotechnic composition not to exceed fifty (50) grams each in weight.

c. Wheels, total pyrotechnic composition not to exceed sixty (60) grams for each driver unit or two hundred forty (240) grams for each complete wheel. The inside tube diameter of driver units shall not exceed one-half (½) inch.

d. Ground spinner, a small device containing not more than twenty (20) grams of pyrotechnic composition venting out of an orifice usually in the side of the tube, similar in operation to a wheel, but intended to be placed flat on the ground.

e. Illuminating torches and colored fire in any form, total pyrotechnic composition not to exceed one hundred (100) grams each in weight.

f. Dipped sticks and sparklers, the total pyrotechnic composition of which does not exceed one hundred (100) grams, of which the composition of any chlorate or perchlorate shall not exceed five (5) grams.

g. Toy propellant devices and toy smoke devices, as described in Title 49, CFR Part 173.100.

h. Cigarette loads, as described in Title 49, CFR Part 173.100.

i. Trick matches consisting of book matches, strike-anywhere matches or strike-on-box matches, as described in Title 49, CFR Part 173.100.

j. Trick noisemakers, as described in Title 49, CFR Part 173.100.

k. Snake or glow worm, pressed pellets of pyrotechnic composition that produce a large snake-like ash upon burning.

l. Fireworks which are used exclusively for testing or research by a licensed explosives laboratory.

(4) *Temporary stands*, also referred to herein as *stands*, are those structures permitted by these regulations for the sale or dispensing of fireworks. (Ord. 1544, 1998; Ord. 1589, 1999)

Sec. 8-28-30. Permit required.

A temporary fireworks stand permit shall be required for the use of a stand for the retail sale of fireworks. An annual fee per stand, as established by the City annual fees and charges resolution, must be paid to obtain a permit. Permit applications will only be accepted from May 1 through May 30 of each year. (Ord. 1544, 1998)

Sec. 8-28-40. Permit approval.

Once an applicant has complied with all provisions of the Code and has paid the application fee, the City Manager will review the application and will authorize a fireworks stand. All permits will be processed prior to June 20 of each year. (Ord. 1574 §1, 1999)

Sec. 8-28-50. Application for permit.

Permits for fireworks stands shall be restricted to nonprofit applicants only, and priority shall be given to those nonprofit applicants who reside or do business within the City's corporate limits. Applications shall be obtained from the Building Inspection Division. A temporary fireworks stand permit shall not be valid until or unless the applicable fire district has advised the Building Inspection Division in writing that all relevant provisions of the Uniform Fire Code, as adopted by the City, have been met. All fire and building inspections must occur no later than June 20 of the year for which the permit is requested. A permit for all electrical work shall also be obtained from the Building Inspection Division of the City, and all electrical work must comply with regulations for hazardous locations. Permits must be obtained and all electrical work completed at least one (1) day prior to the date of the inspection. (Ord. 1544, 1998; Ord. 1574 §§1, 2, 1999)

Sec. 8-28-60. Bond required.

Each applicant shall submit a cash or performance bond per stand, the amount to be established by the City annual fees and charges resolution, to guarantee that the applicant complies with all provisions contained herein. The cash or performance bond shall be on file with the Building Inspection Division. The bond shall not be released by the Building Inspection Division until the stand is satisfactorily dismantled and removed, and the area is cleaned of all trash. (Ord. 1544, 1998; Ord. 1574 §1, 1999)

Sec. 8-28-70. Zoning districts where sales allowed.

Sale of fireworks shall be allowed as a use by right in the following zone districts within the City: C-3, I-1, I-2 and commercial PUDs. (Ord. 1544, 1998; Ord. 1574 §§1, 3, 1999)

Sec. 8-28-80. Permit restrictions.

The following restrictions shall apply to all permits issued for temporary fireworks stands:

(1) A valid temporary fireworks stand permit shall not be transferable to any organization or person.

(2) A temporary fireworks stand permit shall be valid for the sale of fireworks from June 20 through July 5 of the year in which it was issued.

(3) All stands shall be dismantled and removed by July 15.

(4) Temporary toilet facilities shall be provided throughout the term for which the permit was issued. (Ord. 1544, 1998; Ord. 1574 §1, 1999)

Sec. 8-28-90. Revocation of permit.

(a) Violations of the provisions contained within this Article, as determined by the Building Inspection Division, will result in the immediate revocation of the permit and forfeiture of the bond. Review of such revocation and forfeiture shall be in accordance with the City zoning and land use regulations, Section II.

(b) No temporary fireworks stand permit shall be issued to any person who has had a previous temporary fireworks stand permit revoked or a previous conviction under Section 12-28-109, C.R.S., during the preceding five-year period. (Ord. 1544, 1998; Ord. 1574 §1, 1999; Ord. 1589, 1999)

Sec. 8-28-100. Setbacks.

(a) All setbacks shall be measured from permanent structures, curbing and property line fences. Front setbacks shall be measured from the curb face or the flow line of a concrete curb/gutter public street improvement. Where there are no public street improvements in place, the front setback shall be measured from the edge of asphalt or driving surface.

(1) Front: A clear and unobstructed distance of fifty (50) feet is required to the stand or any detached fireworks storage from any corner.

(2) Side: A clear and unobstructed distance of thirty (30) feet is required to the side of the stand or any detached fireworks storage.

(3) Separation: A clear and unobstructed distance of thirty (30) feet is required between the stands if more than one (1) stand is deemed by the Building Inspector to be necessary.

(4) Rear: A clear and unobstructed distance of thirty (30) feet is required to the rear of the stand or any detached fireworks storage.

(b) In any case, a clear and unobstructed distance of fifty (50) feet shall be maintained between a stand and any portion of any permanent building or accessory structure, excluding fences.

(c) A distance of thirty (30) feet shall separate stands and detached fireworks storage. (Ord. 1544, 1998; Ord. 1574 §1, 1999)

Sec. 8-28-110. Exits, construction and fire extinguishers.

(a) All stands measuring more than twenty-five (25) feet in length across the face shall have at least two (2) exits. Exit doors shall be a minimum of twenty (20) inches in width and six (6) feet in height and swing in the direction of egress.

(b) "No Smoking" signs shall be conspicuously placed both inside and outside of the stand.

(c) Each stand shall be constructed of wood, metal or other approved materials. Stands shall not have wheels or tires. Tents shall not be approved as stands. Combustible construction shall be painted with a water-based latex paint.

(d) Each stand shall have two (2) 2A10BC multipurpose dry chemical fire extinguishers readily accessible and in good working order. Each extinguisher shall carry a current annual inspection tag. One (1) extinguisher shall be placed at each end of the stand.

(e) All stands provided with electrical wiring shall be constructed as required by the Building Inspection Division. (Ord. 1544, 1998; Ord. 1574 §1, 1999)

Sec. 8-28-120. Special provisions for temporary fireworks stands.

(a) The public shall not be allowed access to the interior of a stand.

(b) All fireworks shall be dispensed by the applicant. In no case shall the public handle or package fireworks.

(c) Fireworks shall not be sold or dispensed unless directly supervised by a person twenty-one (21) years of age or older. Said supervisor shall be present during all hours of operation.

(d) Fireworks shall not be sold or dispensed to anyone under sixteen (16) years of age unless accompanied by an adult. (An adult is a person eighteen [18] years of age or older.)

(e) Vegetation within the required stand setbacks shall be a maximum of two (2) inches above the ground, with the exception of trees and shrubs. Weeds not within the stand setback, but on the premises, must be maintained at a maximum height of twelve (12) inches within a radius of two hundred (200) feet from any point on the stand or to the property line, whichever is the lesser distance.

(f) No fireworks shall be discharged within a one-hundred-foot radius from any point on the stand or to the property line of the premises, whichever shall be the lesser distance.

(g) Temporary stands shall not exceed a gross floor area of four hundred (400) square feet. All stands with floor areas between three hundred (300) and four hundred (400) square feet must have three (3) exits.

(h) No fireworks shall be sold or dispensed from any motor vehicle or towed vehicle. A motor vehicle, travel trailer, tent or tent cover attached to or combined as a part of a stand shall not be permitted.

(i) Sale of fireworks at wholesale shall not be conducted from stands. A stand shall be used only for retail sales of fireworks.

(j) Signage shall meet the requirements of the City land use and development regulations, Section V.J.3.1 (Temporary Signs), as may be amended.

(k) Public parking must be restricted to the front area of the stand. No motor vehicles of any kind shall be allowed within twenty (20) feet of the stand.

(l) All trash and empty boxes shall be stored in an enclosed trash dumpster no closer than thirty (30) feet to the stand. (Ord. 1544, 1998; Ord. 1574 §1, 1999; Ord. 1589, 1999)

Sec. 8-28-130. Unlawful sale, use or possession of fireworks.

(a) It shall be unlawful for any person to possess or discharge any fireworks, other than permissible fireworks, anywhere in the City.

(b) It shall be unlawful for any person who has not been issued a permit for a fireworks stand to offer for sale, sell or have in such person's possession with the intent to offer for sale any fireworks, including permissible fireworks.

(c) The discharge of fireworks, at any duly authorized fair or display, pursuant to a permit issued by the City, shall be lawful, if the display is performed in accordance with the requirements of the National Fire Protection Association as stated in NFPA-1123, Code for the Outdoor Display of Fireworks. (Ord. 1544, 1998; Ord. 1574 §1, 1999)

ARTICLE 8-32

Community Noise Control

Sec. 8-32-10. Declaration of policy.

It is declared that at certain levels noise is detrimental to the public health, comfort, convenience, safety and welfare of the citizens of the City. This Article is enacted to protect, preserve and promote the health, welfare, peace and quiet of the citizens of the City through the reduction, prohibition and regulation of noise. It is the intent of this Article to establish and provide for sound levels that will eliminate unnecessary and excessive noise, reduce traffic and community noise and establish noise standards and sound levels that will promote a comfortable enjoyment of life, property and conduct of business and prevent sound levels which are harmful and detrimental to individuals and the community. (Ord. 944 §1(part), 1977)

Sec. 8-32-20. Definitions.

The following definitions shall apply in the interpretation and enforcement of this Article:

(1) *A-weighted sound level* means the sound pressure level in decibels, as measured on a sound-level meter using the A-weighted network. The level so read shall be designated dBA.

(2) *Decibel* means a logarithmic and dimensionless unit of measure often used in describing the amplitude of sound, and is denoted by the symbol dBA.

(3) *Motor vehicle* means any vehicle propelled by mechanical power and includes, but is not limited to, any passenger vehicle, truck, truck-trailer, semitrailer, motorcycle, recreational vehicle, snowmobile, minibike, go-cart, dune buggy, racing vehicle and any other vehicle, whether licensed or designated for street use or not, which is self-propelled or drawn by mechanical power.

(4) *Plainly audible* means that the information content of sound is unambiguously heard or received by a person of normal hearing, such sound consisting of, but not being limited to, understanding of spoken speech, comprehension of what is causing the sound, comprehension of what the source of the sound is or comprehension of musical rhythms.

(5) *Sound pressure level* means twenty (20) times the logarithm to the base 10 of the ratio of the root mean square (RMS) sound pressure to the reference pressure which shall be twenty (20) micropascals, denoted LP or SPL. (Ord. 944 §1(part), 1977)

Sec. 8-32-30. Scope of application.

This Article shall apply throughout the City, including private areas therein as well as public streets, roads, parking areas or other public ways and places. (Ord. 944 §1(part), 1977)

Sec. 8-32-40. Noise prohibited.

(a) Motor vehicle noise. It is unlawful for any person to drive or move, or for any person to cause or knowingly permit to be driven or moved, within the City, any motor vehicle which is not equipped with an adequate muffler in constant operation and properly maintained to prevent any unnecessary noise.

(1) *Unnecessary noise* as used in this Section means sound that is emitted as the result of operation of a motor vehicle and which is plainly audible, as defined in Section 8-32-20(4), a distance of four hundred (400) feet from the noise source.

(2) Any operator or owner of a motor vehicle, upon being charged with a violation of this Section, shall have the right prior to the date of his or her arraignment to request a time from the Police Department for his or her appearance at the Police Department to test the subject motor vehicle against a decibel meter owned and operated by the City. The test shall be conducted on the motor vehicle in a manner which will enable a test of the motor vehicle noise approximating the motor vehicle noise that gave rise to the charge. If the test establishes that the subject vehicle emits a sound pressure in excess of the dBA set forth in Subparagraphs a and b of this Subsection, such evidence may be used in court as additional proof and support of the summons and complaint issued pursuant to this Section. If the test establishes that the subject motor vehicle emits a sound pressure equal to or less than the dBA set forth in Subparagraphs a and b of this Subsection, the

summons and complaint shall be dismissed in court by the City Attorney without further action by the defendant.

a. Motor vehicles weighing less than ten thousand (10,000) pounds manufacturer's gross vehicle weight (GVW), or any combination of motor vehicles towed by such motor vehicle, shall not emit a sound pressure level in excess of eighty (80) decibels in the A-weighting network dBA;

b. Motor vehicles weighing ten thousand (10,000) pounds or more manufacturer's gross vehicle weight (GVW), or any combination of motor vehicles towed by such motor vehicle, shall not emit a sound pressure level in excess of ninety (90) decibels in the A-weighting network dBA.

(3) Noise from a motor vehicle shall be measured at a distance of at least twenty-five (25) feet from the motor vehicle at a height of at least four (4) feet above the immediate surrounding surface on a sound level meter of Type 2 or better, as specified in the American National Standards Institute Publication Sl-4-1971, or successor publications, and operated on the A-weighting network.

(b) Noise other than from motor vehicles. It is unlawful within the City to make, create or allow the making or creating of any noise that is plainly audible, as defined in Section 8-32-20(4), at the distances measured as follows from the noise source, except that the standard for noise generated by a motor vehicle shall be governed by the provisions of Subsection (a) of this Section.

(1) In residential zoned districts or mobile home park zoned districts, one hundred (100) feet from the property line of the property where the noise source is located;

(2) In commercial zoned districts, two hundred (200) feet from the property line of the property where the noise source is located;

(3) In industrial zoned districts, four hundred (400) feet from the property line of the property where the noise source is located;

(4) In the event the noise source is located on a public right-of-way, the measured allowable distance for a plainly audible sound shall be measured from the property line of such public right-of-way;

(5) In order to constitute a violation of this Subsection, the plainly audible noise prohibited herein must be continual or essentially uninterrupted for at least three (3) minutes, or must persist for at least a total of five (5) minutes in any ten-minute period of time. (Ord. 944 §1(part), 1977; Ord. 957 §1, 1977; Ord. 1589, 1999)

Sec. 8-32-50. Exceptions.

Provisions of this Article should not apply to sounds emitted as a result of any of the following:

(1) Any bell or chime from any building clock, school or church;

(2) Any siren, whistle or bell lawfully used by emergency vehicles, or any alarm systems used in case of fire, collision, civil defense, police activity or imminent danger; provided,

however, that burglar alarms not terminating within fifteen (15) minutes after being activated shall not be excepted from the provisions of this Article;

(3) Any aircraft in flight subject to federal law regarding noise control, or any rail traffic subject to protection as interstate commerce;

(4) Any activities of a temporary duration which are permitted by law and for which a license or permit has been granted by the City including, but not limited to, parades, sporting events, concerts, firework displays or public address systems;

(5) Any entertainment or sporting events sponsored by a tax-supported governmental entity or any nonprofit organization;

(6) Any power equipment operated between the hours of 7:00 a.m. and 9:00 p.m. for the purpose of maintenance or improvement of property;

(7) Any vehicle operating on a prescribed truck route with a manufacturer's gross weight rating of ten thousand (10,000) pounds and above; or

(8) Any construction activities within the City between the hours of 6:00 a.m. and 9:00 p.m., regardless of location, shall be subject to the maximum permissible noise level specified for industrial zoned districts for the periods within which construction is to be completed pursuant to any applicable building permit or pursuant to any contract with the City, as the case may be. (Ord. 944 §1(part), 1977)

Sec. 8-32-60. Vehicle horns prohibited with exceptions.

No person shall at any time sound any horn or other audible signal device of a motor vehicle unless it is necessary as a warning to prevent or avoid a traffic accident. (Ord. 944 §1(part), 1977)

Sec. 8-32-70. Motor vehicle muffler control.

(a) It is unlawful for any person to drive or move, or for any person to cause or knowingly permit to be driven or moved, within the City, any motor vehicle which is equipped with a muffler or exhaust system that has been modified or used with a cutoff, bypass or similar device.

(b) No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that noise emitted by a muffler of the type originally installed on the vehicle. (Ord. 944 §1(part), 1977)

Sec. 8-32-80. Application for a permit.

(a) Application for a permit for relief from the noise level controls designated in this Article may be made to the Board of Adjustment on the basis of undue hardship.

(b) Any permit granted by the Board of Adjustment under this Article shall contain all conditions upon which the permit shall be granted, and shall specify a reasonable period of time that the permit shall be effective.

(c) The Board of Adjustment may grant the permit applied for if it is first determined that:

(1) Additional time is necessary for the applicant to alter or modify his or her activity or operation to comply with this Article;

(2) The activity, operation or noise source would be of a temporary duration and cannot be done in a manner which would otherwise comply with this Article, and no other reasonable alternative is available to the applicant; and/or

(3) Granting of the permit would not be injurious to the best interests of the general health, safety and welfare of the citizens of the City.

(d) The Board of Adjustment shall prescribe any conditions or requirements deemed necessary to minimize adverse affects upon the community or the surrounding neighborhood.

(e) Application for the permit provided for in this Article shall be made upon forms prescribed by the City Manager.

(f) An application fee of one hundred fifty dollars ($150.00) shall accompany each application for a permit filed under this Article.

(g) The Board of Adjustment shall hold a public hearing on such application, and notice thereof shall be given in the same manner as notices of public hearing before the Board of Adjustment on applications for variances from the zoning ordinance of the City. (Ord. 944 §1(part), 1977; Ord. 1589, 1999)

ARTICLE 8-36

Air Pollution Control

Sec. 8-36-10. Declaration of policy.

This Article is enacted to protect, preserve and promote the health, safety and welfare of the citizens of the City, through the reduction, prevention and control of air pollution. It is the intent of this Article to establish and provide for the enforcement of air quality standards which will assure that ambient air be adequately pure and free from smoke, contamination, pollutants or synergistic agents injurious to humans, plant life, animal life or property, or which interfere with the comfortable enjoyment of life or property or the conduct of business. (Ord. 1026 §1(part), 1980)

Sec. 8-36-20. Definitions.

The following definitions shall apply in the interpretation and enforcement of this Article:

(1) *Air contaminant (pollutant)* means any fume, odor, smoke, particulate matter, vapor, gas or any combination thereof, but not including water vapor or steam condensate.

(2) *Air pollution* means the presence in the outdoor atmosphere of one (1) or more air contaminants.

(3) *Ambient air* means the surrounding or outside air.

(4) *Atmosphere* means the air that envelopes or surrounds the earth.

(5) *Emission* or *emit* means to discharge, release or permit or cause the discharge of or release of one (1) or more air contaminants into the atmosphere.

(6) *Engine* means any internal combustion machine, such as is found in motor vehicles, which utilizes gasoline or liquid fuel for combustion energy.

(7) *Nuisance* means the doing of or the failure to do something which allows or permits air contaminants to escape into the open air which are or tend to be detrimental to the health, comfort, safety or welfare of the public, or which causes or tends to cause substantial annoyance, inconvenience or injury to persons exposed thereto, or causes or tends to cause damage to property.

(8) *Person* means any person, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user or owner and shall include any municipal corporation, state or federal governmental agency district or any officer or employee thereof. (Ord. 1026 §1(part), 1980)

Sec. 8-36-30. Scope of application.

This Article shall apply throughout the City, including private areas therein as well as public streets, roads, parking areas or other public ways and places. (Ord. 1026 §1(part), 1980)

Sec. 8-36-40. Emissions from gasoline-powered engines.

No person shall emit from any gasoline-powered engine any visible air contaminants for a period greater than ten (10) consecutive seconds. (Ord. 1026 §1(part), 1980)

Sec. 8-36-50. Summons for violation.

When a gasoline engine is found to be emitting air contaminants in violation of this Article, a summons shall be served on the owner or operator thereof, requiring an appearance in Municipal Court on the regular court arraignment date next closest to the expiration of forty (40) days thereafter, to answer charges of violation of this Article, and:

(1) Within the period set forth above, the person summoned shall either repair the engine to comply with the standards of this Article or cease operation of the vehicle within the City;

(2) It shall be presumed that any vehicle operating in violation of Section 8-36-40 with respect to visible air contaminants is also emitting nonvisible air contaminants;

(3) If, prior to the court appearance date, the vehicle which is the subject of the summons issued pursuant to this Section is repaired and found to be in compliance with this Article by an officer of the Police Department, the summons shall be dismissed without further proceedings. (Ord. 1026 §1(part), 1980)

Sec. 8-36-60. Unlawful acts designated.

(a) It is unlawful for any owner to operate or to permit operation of any gasoline engine found to be in violation of the standards set forth in this Article.

(b) It is unlawful for any person to misrepresent or give any false or inaccurate information or in any other way attempt to deceive a licensed repair garage or the department in order to avoid compliance with the provisions of this Article.

(c) It is unlawful for any licensed repair garage or its agents to misrepresent any fact, falsely certify any repair or in any other way attempt to mislead the department into believing that air pollution standards are being met. (Ord. 1026 §1(part), 1980)

ARTICLE 8-40

Ice Cream Vendors

Sec. 8-40-10. Purpose.

The purpose of this Article is to allow and regulate the sale and vending of prepackaged ice cream, Popsicles or frozen desserts from an ice cream vehicle or pushcart on public streets or sidewalks. (Ord. 1513 §1(part), 1997)

Sec. 8-40-20. Definitions.

As used in this Article, the following words, terms and phrases shall have the meanings respectively ascribed to them in this Section, except where the context clearly indicates a different meaning:

(1) *Applicant* means an individual, corporation, partnership, limited partnership, limited liability company or any organization applying for issuance of a license.

(2) *Chief of Police* means the Chief of Police, or designee, of the City.

(3) *City Clerk* means the City Clerk, or designee, of the City.

(4) *Ice cream vehicle* means any vehicle in which prepackaged ice cream, Popsicles or frozen desserts of any kind are carried for purposes of retail sale on the City streets, on which the standard emblem designating it as a *slow-moving vehicle* is clearly attached.

(5) *License* means the authority under this Article to operate and vend from an ice cream vehicle or pushcart.

(6) *Licensee* means a person who operates an ice cream vehicle or pushcart for vending purposes and who has been issued a license under this Article.

(7) *Pushcart* means a nonmotorized food service vehicle which is designed to be moved by hand on City sidewalks.

(8) *Vend* or *vending* means the business of offering prepackaged ice cream, Popsicles or frozen desserts for sale from an ice cream vehicle on the City streets or from a pushcart on the City sidewalks. (Ord. 1513 §1(part), 1997; Ord. 1589, 1999)

Sec. 8-40-30. License required.

It shall be unlawful for any person to engage in the business of vending prepackaged ice cream, Popsicles or other types of frozen desserts without first obtaining an annually renewable license from the office of the City Clerk for each ice cream vehicle or pushcart according to the provisions of this Article. The fee for each license shall be as established from time to time by resolution of the City Council. The license is valid for one (1) calendar year. (Ord. 1513 §1(part), 1997)

Sec. 8-40-40. Insurance required.

Each holder of a license hereunder shall at all times maintain commercial liability insurance in amounts not less than required by the City per City Council fees and charges resolution, and evidenced by a certificate, signed by an agent of an insurance carrier authorized to conduct business in the State. Such certificate shall verify insurance status and set forth the limits of each policy, policy number and insurer, the effective and expiration date of each policy, and a copy of an endorsement placed on the submitted policy requiring ten (10) days' notice by mail to the City prior to policy cancellation for any reason. (Ord. 1513 §1(part), 1997)

Sec. 8-40-50. Unlawful acts designated.

It is unlawful for any person operating or vending an ice cream vehicle or pushcart to:

(1) Violate any traffic law;

(2) Deliver products to customers other than when the ice cream vehicle/cart is lawfully stopped and the vehicle's hazard lights are in operation;

(3) Fail to comply with all applicable health and sanitation statutes, rules, regulations, ordinances or other laws established by the City;

(4) Vend from any part of the vehicle other than from the side of the ice cream vehicle away from moving traffic and as near as possible to the curb or the side of the street,

(5) Vend to anyone standing in the roadway;

(6) Back up any ice cream vehicle to make or attempt to make a sale;

(7) Vend within five hundred (500) feet of any City park or recreation facility at which organized recreation and/or leisure programs are being conducted;

(8) Vend other than on residential streets;

(9) Drive an ice cream vehicle in excess of ten (10) miles per hour while vending;

(10) Allow any person to hang onto the ice cream vehicle or allow any person to ride in or on the ice cream vehicle, except a bona fide assistant; or

(11) Vend in a manner which endangers the health, safety or welfare of the citizens of the City. (Ord. 1513 §1(part), 1997)

Sec. 8-40-60. License application; issuance.

(a) Each applicant for an ice cream vending license, and all associated employees, shall submit copies of the following documentation, in duplicate, to the City Clerk:

(1) Name and description of the applicant;

(2) Address, including address where the applicant can be reached in the City area;

(3) Driver's license;

(4) Social Security number;

(5) Brief description of the nature of the business and the goods to be sold;

(6) Map of proposed route;

(7) Completed ice cream vendor's application for the City, including "Background Investigation Questionnaire";

(8) Completed City sales tax application;

(9) Required fee; and

(10) Such other information as the City Clerk shall deem necessary for the public health, safety and welfare.

(b) Immediately subsequent to the submission of the documents referred to in Subsection (a) above to the City Clerk, the City Clerk shall refer one (1) copy to the Chief of Police. Upon such referral, the Chief of Police shall cause an investigation of the applicant's business and character to be conducted to the extent necessary for the protection of the public health, safety and welfare. The Chief of Police shall notify the City Clerk of the outcome of the background investigation, together with his or her recommendation for approval or denial. The cost for such background check shall be borne by the applicant.

(c) No ice cream vending license shall be issued to or held by any person unless that person is satisfactory to the Chief of Police with respect to moral character and record. Factors to be considered in determining moral character and record shall include, but not be limited to:

(1) The prior conviction in any jurisdiction of a felony, or of a crime which, if committed in the State, would constitute a felony;

(2) Conviction of any criminal offense involving sexual crimes committed against children or involving the exploitation of children through pornographic or obscene materials;

(3) Revocation or suspension of the applicant's or an employee's driver's license for any reason in the past five (5) years; or

(4) Such other information as the Chief of Police shall deem necessary for the protection of the public health, safety and welfare.

(d) In addition to the grounds set forth in the above Subsection (c), the Chief of Police may refuse to approve an ice cream vending license for any applicant whose record shows one (1) or more convictions for an alcohol- or drug-related driving offense or a pattern of convictions for traffic violations.

(e) If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the City Clerk shall endorse on such application his or her disapproval and his or her reasons therefor, and shall notify the applicant that the application has been disapproved and that no license will be issued for the reasons stated.

(f) If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the City Clerk shall endorse on the application his or her approval.

(g) Upon completion of the required documentation set forth in Subsection (a) hereof, the City Clerk shall issue the license applied for. (Ord. 1513 §1(part), 1997)

Sec. 8-40-70. Suspension or revocation of license.

Licenses issued pursuant to the provisions of this Article may be revoked or suspended by the City Council after notice and hearing for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for license;

(2) Fraud, misrepresentation or false statement made in the course of carrying on the business for which the license is issued;

(3) Any violation of a City ordinance or state statute; or

(4) Conduct of the business in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public. (Ord. 1513 §1(part), 1997)

Sec. 8-40-80. Hours of operation.

No sale or offer for sale shall be made by any ice cream vendor between sunset and 10:00 a.m. (Ord. 1513 §1(part), 1997)

Sec. 8-40-90. Amplified sound.

Ice cream vehicles may use amplified sound only in accordance with the provisions of Section 8-32-40(a)(2) of this Code. (Ord. 1513 §1(part), 1997)

Sec. 8-40-100. Restricted and prohibited operations.

Ice cream vendors shall be limited to serving prepackaged ice cream, Popsicles or frozen desserts. Only single-serve items for the use of the consumer may be sold. The City reserves the right to prohibit the sale of certain food items in order to protect the health or safety of its citizens. (Ord. 1513 §1(part), 1997)

Sec. 8-40-110. Display of license.

The license under which an ice cream vehicle or pushcart is operating must be firmly attached and visible on the ice cream vehicle or pushcart at all times. (Ord. 1513 §1(part), 1997)

Sec. 8-40-120. Inspection and enforcement.

The City reserves the right to inspect any ice cream vending operation at any time. The provisions of this Article shall be enforced by any police officer or code enforcement officer of the City by issuance of a summons. (Ord. 1513 §1(part), 1997)

Sec. 8-40-130. No assumption of liability.

Nothing in this Article shall create any duty to any person with regard to the enforcement or nonenforcement of the provisions herein. No person shall have any civil liability remedy against the City, its officers, employees or agents for any damages arising out of or in any way connected with the adoption, enforcement or nonenforcement of this Article, and nothing in this Article shall be construed to create any liability or to waive any immunities, limitations on liability or other provisions of the Governmental Immunity Act, Section 24-10-101, C.R.S., et seq., or to waive any immunities or limitations on liability otherwise available. (Ord. 1513 §1(part), 1997; Ord. 1589, 1999)

Sec. 8-40-140. Exceptions.

Operators of vehicles delivering milk, bread or other food: (1) upon prior order or request by the occupants of establishments or dwellings within the City, (2) in conjunction with a parade or (3) on a street legally closed to traffic are specifically exempt from the provisions of this Article. (Ord. 1513 §1(part), 1997)